



DEPARTMENT OF THE ARMY  
SAN FRANCISCO DISTRICT, U.S. ARMY CORPS OF ENGINEERS  
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JUL 14 2015

Executive Office

SUBJECT: FILE NO. **1991-194740N**

Mr. Charlie Fielder  
District 1 Director  
California Department of Transportation  
P.O. Box 3700  
Eureka, California 95502

Dear Mr. Fielder:

This letter is in response to Caltrans' March 20, 2015 request for changes to the required compensatory mitigation for the Willits Bypass project. The strategies listed in the letter include:

- 1) Assigning a full 1:1 mitigation credit ratio for any of the Group 2 wetland establishment sites that are found suitable,
- 2) Assigning a 0.05 credit per acre for the wetlands being enhanced and managed under the State Mitigation & Monitoring Proposal (State MMP), and
- 3) Adjustments to wetland rehabilitation acreage as needed.

USACE staff evaluated the January 4, 2012 ICF Memorandum titled, "Willits Bypass Project – Soil Characteristics at Proposed Group 2 Wetland Establishment Sites". Due to the short timeline required by Caltrans for permitting this project in February 2012, we were unable to incorporate this information in the initial mitigation project approval. USACE staff has determined that 1:1 mitigation credit is acceptable for two parcels of the Group 2 establishment wetlands. The parcels identified as Benbow (108-040-13) and Wildlands (180-020-07) were determined to have Cole clay loam soils. The permeability and drainage of these soils supports Caltrans' request for an increase from 0.3:1 to 1:1 wetland establishment credit, resulting in a total of 1.65 acres on the Benbow parcel and 2.18 acres on the Wildlands parcel. This change will result in an increase of 2.681 acres of wetland establishment credit.

USACE staff has thoroughly considered Caltrans' request for a major change to the compensatory mitigation described in the January 2012 Mitigation and Monitoring Plan (Federal MMP) that would substitute managed grazed wetlands for the wetland rehabilitation required under the Clean Water Act (CWA) Section 404 permit. As supported by current South Pacific Division guidance, USACE categorizes the actions occurring on the grazed wetlands as preservation, not enhancement. In previous staff conversations with Caltrans, the USACE stated that the "performance standards for the grazing plan are extremely vague and lack magnitude", and that any consideration of grazing credit would require "a study that can determine that the increase in functions on the grazed wetlands is actually the result of active management (targeted grazing) and

not primarily due to other factors”. USACE staff further explained that the monitoring design should measure wetland functions and services, predict trends and magnitudes, and have a rigorous scientific determination, which would necessarily include hypothesis testing, control parcels, and statistical evaluation. The intention is to demonstrate that the targeted grazing regime on the Willits Bypass Mitigation wetlands provides sufficient functional lift to provide compensatory mitigation for not just one special status plant species, but for all the wetland functions and services present in the wetlands filled for the Bypass construction.

Caltrans submitted a response and a proposed monitoring plan for the preservation wetlands on May 22, 2015. This included a proposed Amendment 2 to the Federal MMP, and the “Study Proposal for Evaluating the Avian Community Response to Mitigation Actions at the Willits Bypass”. The metrics in the proposed Amendment 2 are:

- 1) Maintain or improve habitat for Baker’s meadowfoam (BMF) by measuring BMF population and distribution
- 2) Improve species richness and cover by other native plant species by measuring number of native plant species
- 3) Improve species richness and cover by other native plant species by measuring relative cover of native plant species
- 4) Control invasive plants by measuring absolute cover of invasive plants
- 5) Improve water quality by measuring concentrations of enterococcus and fecal coliform
- 6) Increase faunal use and diversity using the Shannon-Weiner diversity index
- 7) Increase faunal use and diversity using avian point counts, area search census and a relevé survey for plant community composition.

Of the seven metrics listed by Caltrans in the proposed Amendment 2, only those associated with the Avian Community Response plan are new. All other metrics are previously described in the Federal MMP, State MMP, or the Grazing Plan. Amendment 2 does not expand the scope of the pre-existing measurements to additional control parcels, or develop additional testable performance standards. In short, the Amendment is mostly a re-statement of the monitoring already required by regulatory and resource agencies without expanded analysis.

The Avian Community Response Study does meet the USACE requirements for a multi-year study that includes hypothesis testing, control parcels, and rigorous analysis. However, as stated in the study proposal, the focus of the analysis is on riparian and grassland bird ‘focal’ species and the associated habitat types for these species. This does not meet the needs of the Section 404 CWA compensatory mitigation, which are to replace the many biological, chemical and physical functions and services that were present in the wetlands filled for Bypass construction.

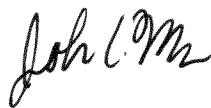
In numerous letters dated 2013 and 2014, Caltrans has repeatedly assured the USACE that the Mitigation Project is fully funded and that Caltrans is committed to environmental mitigation on this project. Caltrans’ Amendment 2 proposal does not provide the necessary information to demonstrate that targeted grazing in the preserved wetlands would result in adequate wetland

functional lift to satisfy the compensatory mitigation obligations from the Willits Bypass construction. Caltrans has not demonstrated that their proposed changes to the approved Federal MMP would adequately compensate for fill in wetlands and other waters of the U.S. Accordingly, USACE is unable to accept the proposed Amendment 2 to the Federal MMP as compensatory mitigation for the Willits Bypass project.

To summarize, USACE will accept the additional 2.681 acres of wetland establishment credit as a result of re-evaluating the January 4, 2012 soil characteristics memo. USACE will not grant additional compensatory mitigation credit for the proposed Amendment 2 to the Federal MMP.

If you have any questions regarding this matter, please contact Sahrye Cohen in our Regulatory Division at 415-503-6779 or via e-mail at [Sahrye.E.Cohen@usace.army.mil](mailto:Sahrye.E.Cohen@usace.army.mil).

Sincerely,

A handwritten signature in black ink, appearing to read "John C. Morrow".

John C. Morrow  
Lieutenant Colonel, US Army  
District Engineer

Copies furnished:

Congressman Jared Huffman, California District 1  
U.S. Attorney, San Francisco, CA  
U.S. EPA, San Francisco, CA  
California Department of Fish and Wildlife, Eureka, CA  
North Coast Regional Water Quality Control Board, Santa Rosa, CA  
National Marine Fisheries Service, Santa Rosa, CA  
Malcolm Dougherty, Caltrans Director, Sacramento, CA